academic qualifications should be appointed as head-clerks. The responsible work of issuing summons and other processes and attesting court records should be taken away from the head-clerk and vested in the judges by turns. The staff of the local court required strengthening. The jurisdiction of the courts should be raised from Rs. 50 to Rs. 100.

DEWAN'S REPLY: Mr. Gopalan Nair, all the points which you have raised and the suggestions which you have put forward will be taken up for consideration in consultation with the High Court.

34. Civil Justice

MR. NARAYANARU KRISHNARU (*Member, Jenmi, Trivandrum Division*) enumerated the hardships and inconveniences caused to the litigants in the present working of the civil courts and suggested the following remedies to remove them :—

All courts should invariably insist on the plaintiff furnishing a true copy of the plaint for supply to the defendant. The differences between the real market rates and the *nirak* rates furnished by the taluk offices should be avoided. In cases where the defendant in a civil suit had not accepted the summons fourteen days previously, and, in a small cause suit, seven days previously, the court should, without an application from him, adjourn the case and allow him to put in a written statement. Issues should be framed within a week after the submission of the written statement and when no issues had to be framed, evidence should at once be recorded and the case disposed of within three weeks. An attendance register of the witnesses present each day should be maintained and those whose examination could not be conducted the same day should be relieved. The fee for commissioners should be modified and fixed at first class *batta* and first class mileage for one day. The courts should have full discretion in the matter of appointing commissioners. The officers of the Agricultural Department should be appointed to value trees and other improvements on land, of the Public Works Department to value buildings, *Proverthikars* to do survey work, and persons at the discretion of the court in other matters, such as examination of witnesses, conducting of oath, etc. As instances of tampering with unregistered documents produced, in original, before courts occurred, a copy need alone be kept in the court, the party being required to produce the original when necessary. A statement of the moneys remitted by the parties, attested by the head-clerk, might be furnished from time to time so as to avoid delay, confusion and double payments when decrees were prepared. The production of *chittas* in the case of *Devaswom* and *Brahmaswom* lands on which *tiruppuvarom* is charged should be dispensed with as it would be enough to consult the revenue settlement register kept in the court. An encumbrance certificate was hardly necessary in the case of auction sales for *jenmi's* dues, as next to the Government, the *jenmi* had the prior claim to the land. Notes of hearing should be arranged to be produced as that would be to the advantage of the client and the convenience of the court. The circular enjoining that a minimum of forty cases should be disposed of monthly by munsiffs should be amended so as to require the disposal of 25 contested cases on the merits without giving room for remand or retrial or review. Calendar revision and vakil's fees should be introduced in respect of small causes. Judgments should be delivered on a fixed date not later than a fortnight after the hearing was over, and if that was not done, it should be delivered on a further date to be fixed. Fees should be levied for certificates in respect of vakil's fees. The office copies of the judgments should be got ready and signed chronologically with reference to the date of judgment. The loss sustained by parties on account of mistakes in the decree should be made good to them by the clerk responsible for its preparation or the officer signing it; and parties need not be obliged to furnish copy of the judgment when applying for rectification of errors in a decree. The rule relating to the issue of three notices in respect of applications for copies should be enforced in all the courts and earlier applications should be granted first. In *ex parte* cases, the original document should be destroyed only after expiry of the period of limitation. Encumbrance certificates should be dispensed with or should be prepared by responsible clerks. Action on applications for execution should invariably be taken at least the next day. *Chellans* should be granted on the day of application; the cheque might be in triplicate as of old. The

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amin who returned unserved process for the putting into possession of land should be severely dealt with. As regards suits involving *jenmom* lands, the defendant-tenant should be granted costs only to the extent the *jenmi's* claim had not been allowed. Moneys should be disbursed from courts only on the receipt of the parties. Statement of unspent process fees. etc., should be published monthly in the court-house. Succession certificates need be insisted on only in contested cases, and the opposing party should pay for the certificate. Vakils should be required to grant receipts for moneys given by clients ; and the accounts of vakils should be scrutinised monthly by Munsiffs and subjected to examination by High Court Judges on circuit.

Petitions and complaints in Panchayat Courts should be received by one of the judges in turn. Judges who absented themselves without leave for two consecutive sittings should be removed from office. High Court Judges should inspect Panchayat Courts. The president of Panchayat Courts should be enjoined to report to the High Court and the Government if the court was not held. The jurisdiction of Panchayat Courts should be enlarged ; it should be enough if either the plaintiff or the defendant resided within that jurisdiction.

Posting of cases in the High Court should be done at least three weeks beforehand. Two weeks' time was inadequate for clients coming from distant places. If a case was not taken up on the date fixed, it should be taken up the following day.

A small fee might be levied on applications to strike cases off the file, as the loss of such applications sometimes entailed liability to pay the judgment debt over again ; so also on applications for copies of decrees in small causes.

The decisions of the High Court in respect of *tiruppuvaram* cases were in conflict with the specific orders of the Government and earlier decisions of the High Court regarding the commutation rate, etc.

Personal service of summonses on the respondent in an appeal should be insisted on, and if need be, a certificate from the local *Provertikar* required when summonses were returned unserved. The party who lost the case should be given a copy of the decree if there was an application for the same, at least one week before the other party.

As the present provision of the *Civil Courts' Guide* in regard to affidavits obliged the vakils to utter falsehoods and put them to hardship and loss, affidavits need be insisted on only in cases where they were indispensable.

Parties should not be required to state the amount of judgment debt when offering to deposit the same. The parties knew only the decreed amount and the clerk who prepared the *chellan* and who knew more about the costs of execution, etc., should calculate the same and enter it in the *chellan*, the clerk being made responsible for any mistakes therein. Persons who had passed from class VII of Vernacular Schools should alone be appointed as peons, and the employment of unqualified dependants of officers should be prohibited. The judgment schedule prescribed by the *Civil Courts' Guide* was unnecessary and vexatious. The prosecution of judgment-debtors escaping from custody should be conducted by the courts and Munsiffs might be empowered in this connection. Five copies of the judgment, instead of ten, need alone be ordered to be produced before the High Court. The circular laying down that peons not serving seventy-five per cent. of the processes and warrants entrusted to them should be punished was not followed in most of the courts and should be republished and enforced.

Some definite arrangement should be made in respect of commission fees realised in courts which annually aggregated to Rs. 1,37,000 nearly. Cheques should be issued on the day after applications were made for disbursement of judgment debt deposited. All applications for execution of decrees should contain the orders of the Munsiff. Reasons should be assigned when petitions are rejected; and the orders on petitions should be published the same day. Both sides of the copying paper should be written on ; the paper should be priced at half the present rate. Munsiffs' courts should be enjoined to obey all instructions and orders of the superior courts; and any disobedience should be seriously noticed. Commissions should not be given on any account to persons living outside the jurisdiction of the court. The practice of

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realising the entire cost of process in execution cases, from attachment to sale, should be altered and the parties enabled to deposit the fees from time to time. The court records should be printed on good paper. Punctuality in attendance should be enforced. No appointments in the Judicial Department should be conferred on those who were in a civil jail. Judgment-debtors when arrested should be sent to jail on the day they were produced before the court. They should be released the next day, only in case the creditor did not send the amount of subsistance allowance by anchal money order. There should be no delay in the printing of judgments for appeal. *Amins* should not execute warrants of attachment on the basis of incomplete information. Moveables on which the name of the judgment-debtor was not inserted should not be attached. The pay of the clerks, peons, etc. in courts should be enhanced in view of the increase already made in process fees. Applications for auction sale should not be insisted on.

Denial of legitimate promotions chilled enthusiasm for work and created discontent in an officer. The rightful claims of Munsiffs for promotion as District Judges should not be overlooked on the strength of the plea for recruitment from the bar made by lawyer-Members of the Legislative Council. There were able and learned Munsiffs and a lawyer who was straightaway appointed as a Sessions Judge could hardly come up to the level of a Munsiff who had been trained to decide on conflicting claims and think impartially. It was imperative in the interests of the people and to ensure the proper administration of justice to confer rightful promotions on deserving Munsiffs irrespective of considerations foreign to the purpose.

The age of an officer was often fixed in Travancore after his confirmation in the service. Corrections of the horoscope could make an officer younger. Wrong statements in the matter of age on the part of their officers should be seriously viewed by the Government as in British India.

DEWAN'S REPLY: Mr. Narayanaru Krishnaru, you have dealt with many points. They will all be taken up for consideration and will in the first instance be referred to the High Court.

35. Civil Justice.

MR. RAMAN NILAKANTAN (*Member, Kottarakara .taluk*) spoke on the irregularities committed by the process-servers. When it was difficult to find out the residence of the defendant or he was known to be away, and the process had to be returned unserved, the certificate of the *Provertikar* was required by the High Court circular. Owing to the violation of this circular and the irresponsibility of the process-servers, *ex parte* judgments were often not delivered and defendants were put to considerable loss and hardship. Notices regarding the admission of reviews were also not properly served and parties were prevented from putting in objection petitions. Warrants for the arrest of judgment-debtors had to be returned, according to the instructions of the High Court, after attestation by the plaintiff or his vakil on his behalf. This was not observed, with consequent delays in the realisation of judgment-debts, and the parties were also liable to pay fresh fees for issue of further warrants. Notices regarding auction sales for judgment-debts were not served on the proper defendants, and the decree-holder, unless he was in the good graces of the peon, was unable to exercise his right of bidding in the auction. The sale of lands by auction was done by *amins* without notification by tom tom and was seldom done on the spot. The *amin* also arbitrarily fixed an upset price which was higher than the market price and thus bidders were scared away. Affidavits had to be presented at various stages in the progress of a suit, and were required in the case of almost every petition to be presented in court. The new *Civil Courts' Guide* which was responsible for the multiplication of affidavits had not made the practice of all the courts uniform in this matter. The occasions for the presentation of affidavits should be reduced to the minimum. The irregularities among the subordinates were due to lack of proper control and supervision by the presiding officers.

DEWAN'S REPLY: Mr. Raman Nilakantan, it distresses the Government to hear your long account of malpractices on the part of the process-servers. You will make the Government very grateful if you can bring a few specific cases to their notice.

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